

To: CN=Don Waye/OU=DC/O=USEPA/C=US@EPA;CN=Jennifer Wu/OU=R10/O=USEPA/C=US@EPA;allison.castellan@noaa.gov[]; N=Jennifer Wu/OU=R10/O=USEPA/C=US@EPA;allison.castellan@noaa.gov[]; llison.castellan@noaa.gov[]
Cc: CN=David Croxton/OU=R10/O=USEPA/C=US@EPA;CN=David Powers/OU=R10/O=USEPA/C=US@EPA;CN=Katie Flahive/OU=DC/O=USEPA/C=US@EPA;CN=Kelly Gable/OU=R3/O=USEPA/C=US@EPA[]; N=David Powers/OU=R10/O=USEPA/C=US@EPA;CN=Katie Flahive/OU=DC/O=USEPA/C=US@EPA;CN=Kelly Gable/OU=R3/O=USEPA/C=US@EPA[]; N=Katie Flahive/OU=DC/O=USEPA/C=US@EPA;CN=Kelly Gable/OU=R3/O=USEPA/C=US@EPA[]; N=Kelly Gable/OU=R3/O=USEPA/C=US@EPA[]
Bcc: CN=Jayne Carlin/OU=R10/O=USEPA/C=US[]
From: CN=Jayne Carlin/OU=R10/O=USEPA/C=US
Sent: Wed 1/16/2013 12:53:45 AM
Subject: Re: Review by COB Thursday Jan 17: Draft Letter Replying to NWEA's Dec 14 Letter
<http://www.epa.gov/r10earth/tmdl.htm>

Hi All,

Dave Powers prepared an eloquent email describing our reservations and Dave Croxton also spoke with Dan directly. From what I understand, Dan still wants us to reply--a short one.

According to Dave Powers, he had a conversation with Nina in which she told him she didn't expect EPA/NOAA to respond to each letter.

Below is the email Dave sent:

I understand that a reply to NWEA's Tillamook dairy letter/video is being prepared. I generally don't step into the ag arena given my forestry focus and the pies such an action risks stepping in. That said I recommend that we reconsider whether and how we reply to NWEA's latest letter and video.

Nina has told us that she doesn't expect a response on all the letters that she sends us. She is a prodigious correspondent.

We've recently received several letters from NWEA, in addition to the Tillamook dairy letter/video, that relate to CZARA. NWEA's letters have raised complicated issues that reference and potentially intersect with CZARA including WQS and ESA listed species. Because Nina does not expect responses and since responses may generate additional letters, workload, legal risks, and complicate final CZARA decision space, the cons of responding may outweigh the pros.

If we do respond, we should coordinate with NOAA given the CZARA consistency angle and our close coordination with NOAA over the past couple of years on settlement agreement and OR and WA CZARA program efforts. I believe we did respond to one of the other NWEA letters in a very brief, general way (thanks for your letter re: x, y, z). NOAA might be o.k. with a brief, general response coming from EPA but we should definitely run it by them given the CZARA focus. If we decide to respond in a more substantive way I would recommend that we coordinate and cosign with NOAA...we may want to run it by the EPA OWOW folks too.

p.s. While I recommend against sending a letter to NWEA, elevating Tillamook dairy/WQ issues to the Dick Pederson/Katy Coba level could help address any verified inadequacies in implementation of OR's SB 1010 program and joint DEQ/ODA enforcement efforts.

Jayne

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From: Don Waye/DC/USEPA/US
To: Jennifer Wu/R10/USEPA/US@EPA,
Cc: allison.castellan@noaa.gov, David Croxton/R10/USEPA/US@EPA, David Powers/R10/USEPA/US@EPA, Jayne Carlin/R10/USEPA/US@EPA, Katie Flahive/DC/USEPA/US@EPA, Kelly Gable/R3/USEPA/US@EPA
Date: 01/15/2013 03:08 PM
Subject: Re: Review by COB Thursday Jan 17: Draft Letter Replying to NWEA's Dec 14 Letter

For what it's worth, I don't mind a single response; I just don't want to invite an avalanche.

From: Jennifer Wu/R10/USEPA/US
To: Don Waye/DC/USEPA/US@EPA
Cc: allison.castellan@noaa.gov, David Croxton/R10/USEPA/US@EPA, David Powers/R10/USEPA/US@EPA, Jayne Carlin/R10/USEPA/US@EPA, Katie Flahive/DC/USEPA/US@EPA, Kelly Gable/R3/USEPA/US@EPA
Date: 01/15/2013 05:56 PM
Subject: Review by COB Thursday Jan 17: Draft Letter Replying to NWEA's Dec 14 Letter

Perhaps it would be good to let Dan know these reservations and why we haven't replied to past letters. I don't want to seem non-responsive, but a legal trail of communications could be lengthy and time-consuming.

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-----Don Waye/DC/USEPA/US wrote: -----

To: Jayne Carlin/R10/USEPA/US@EPA, allison.castellan@noaa.gov, David Croxton/R10/USEPA/US@EPA
From: Don Waye/DC/USEPA/US
Date: 01/15/2013 02:45PM
Cc: David Powers/R10/USEPA/US@EPA, Jennifer Wu/R10/USEPA/US@EPA, Kelly Gable/R3/USEPA/US@EPA, Katie Flahive/DC/USEPA/US@EPA
Subject: Review by COB Thursday Jan 17: Draft Letter Replying to NWEA's Dec 14 Letter

Jayne,

I have reservations about responding to this letter, but as your OD has made this decision, my comments are attached. I don't want to invite quid pro quo responses because attempting to keep up with Nina's prodigious output will deter us from our many obligations. Beyond this, I can't help but wonder if the video clip she sent us points to an enforcement issue. Is it really legal for manure to be applied to fields planted in tidal zones? For that matter, is it even legal for crops to be grown in tidal zones? How do we know the farmer wasn't fined for this violation? Passing tougher state requirements to control ag runoff is one thing.

Enforcement is quite another matter.

I have copied our Ag person for CZARA (Katie Flahive) and am inviting her input on this draft response, as well.
(See attached file: NWEA Letter NOAA EPA Response Draft 1-15-13,dw.docx)

Don Waye

U.S. Environmental Protection Agency
Nonpoint Source Control Branch (OWOW/AWPD)

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Jayne Carlin---01/15/2013 05:10:49 PM---Hi All, Our new Office Director has directed us to develop a response to NWEA's Dec 14 letter (which

From: Jayne Carlin/R10/USEPA/US
To: Don Waye/DC/USEPA/US@EPA, allison.castellan@noaa.gov, David Croxton/R10/USEPA/US@EPA
Cc: David Powers/R10/USEPA/US@EPA, Jennifer Wu/R10/USEPA/US@EPA, Kelly Gable/R3/USEPA/US@EPA
Date: 01/15/2013 05:10 PM
Subject: Review by COB Thursday Jan 17: Draft Letter Replying to NWEA's Dec 14 Letter

Hi All,

Our new Office Director has directed us to develop a response to NWEA's Dec 14 letter (which is attached). Attached is the initial draft and I would welcome your feedback by COB Thursday.

[attachment "NWEA Letter NOAA EPA Response Draft 1-15-13.docx" deleted by Don Waye/DC/USEPA/US]
(See attached file: CZARA letter to Federal Agencies re Tillamook CAFO waste.pdf)
Thanks!

Jayne

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[attachment "NWEA Letter NOAA EPA Response Draft 1-15-13,dw.docx" removed by Jennifer Wu/R10/USEPA/US]
[attachment "CZARA letter to Federal Agencies re Tillamook CAFO waste.pdf" removed by Jennifer Wu/R10/USEPA/US]